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#7

In re Application of	:	
LUU, Bang, et al.	:	
Application No.: 09/890,969	:	
PCT No.: PCT/JP00/00742	:	DECISION ON
Int. Filing Date: 10 February 2000	:	
Priority Date: 10 February 1999	:	PETITION UNDER
Attorney Docket No.: 211815US0PCT	:	
For: USE OF A CYLOHEXENONE	:	37 CFR 1.47(a)
LONG-CHAIN ALCOHOL FOR	:	
TREATING	:	
NEURODEGENERATIVE DISEASES	:	

This is in response to applicants' "Petition Under 37 CFR §1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 11 April 2002.

BACKGROUND

On 10 February 2000, applicants filed international application PCT/JP00/00742. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 17 August 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 03 August 2000, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 10 August 2001.

On 08 August 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 15 October 2001, USPTO mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late furnishing of the oath or declaration were required.

On 11 April 2002, applicants filed "Petition Under 37 CFR §1.47(a)" accompanied by, *inter alia*, the Notification of Missing Requirements dated 11 September 2001 and a combined declaration and power of attorney.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign or cannot be reached after

diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Items (1), (3) and (4) have been met. Applicants paid the \$130 petition fee. The petition lists the last known address of the non-signing inventor Philippe Chabert as 9, rue du Temple, 68300 San-Louis, France. The declaration submitted is accepted as complying with 37 CFR 1.47(a).

As to item (2), under 37 CFR 1.47(a), the petition must supply proof of pertinent facts. It is noted that "copies of documentary evidence, such as a internet searches, certified return mail receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached" should be included. MPEP §409.03(d). Further "a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made." MPEP §409.03(d).

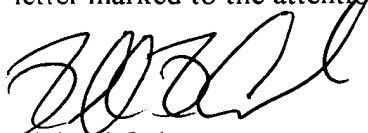
Applicants have not provided such a statement. Additionally, it is unclear what is the basis for applicants' belief that they have been unable to reach Mr. Chabert as it is not stated that either of the letters were returned as undeliverable.

CONCLUSION

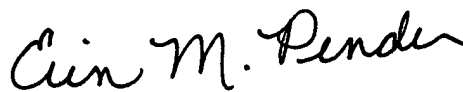
For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.



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